IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3045 OF 2006

Chennelil Ponnapan
Remanan & Anr. .. Petitioners.
Vs.
Rashtriya Chemicals
& Fertilizers Ltd. .. Respondents.

Mr.S.M.Railkar for the petitioners.

CORAM : D.B.BHOSALE, J.

DATED : 20TH SEPTEMBER, 2006

P.C.:

. Heard learned counsel for the petitioners.

2. The petitioners have challenged the order dated 23.12.2005 passed on the application at Exhibit-64 by which the petitioners' application under Order 6 Rule 17 has been rejected. By way of an amendment the petitioners sought to introduce the break-up of the amount claimed by them in the suit. Such break-up was not given in the plaint. According to Mr.Railkar, learned counsel for the petitioners, in the cross examination the petitioners' witness was invited to give break-up and, accordingly, they have given the break-up in the cross examination. Keeping that in view and considering the reasons recorded by the learned Judge for rejecting the application

seeking amendment I do not see any reason to interfere with the order impugned at this stage. However, the observations made by the learned Judge in the order, as rightly pointed out by Mr.Railkar, learned counsel for the petitioners, pre-supposes that a part of the claim of the plaintiff is time barred. These observations shall not come in the way of the petitioners while advancing their arguments before the trial Court even on the point of limitation and the trial Court shall deal with the same in the light of the pleadings and evidence of the parties. The trial Court shall decide the suit on merits in accordance with law expeditiously. It will be open for the petitioners to challenge the order impugned in the present writ petition in further proceedings after disposal of the suit. All contentions are kept open. The writ petition is, accordingly, disposed of.

(D.B.Bhosale, J.)